

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

EQUAL EMPLOYMENT OPPORTUNITY)	
COMMISSION,)	
Plaintiff,)	
)	
vs)	Case Number: 3:23-cv-00282
)	District Judge Michael J. Newman
FRICKER'S U.S.A., LLC, et al.,)	Magistrate Judge Caroline H. Gentry
)	
Defendants.)	

**ORDER GRANTING THE PARTIES' JOINT UNOPPOSED MOTION
TO BIFURCATE DISCOVERY AND TRIAL (Doc. No. 13)**

Pursuant to Rule 42(b) of the Federal Rules of Civil Procedure, and upon consideration of the parties' joint Rule 26(f) report and joint unopposed motion to bifurcate discovery and trial, the instant motion is **GRANTED**.

Discovery and trial in this action shall be conducted in two stages.

I. Stage I: The trial in Stage I shall consist of the following issues:

- a. Pattern-or-practice liability regarding EEOC's sex-based discrimination claim(s);
- b. Liability for and the amount of punitive damages for any pattern or practice of discrimination found by the jury; and
- c. Affirmative defenses pled by Defendants that pertain to the issues to be tried in Stage I.

The scheduling order and discovery deadlines applicable to Stage I are set forth in this Court's Scheduling Order entered on January 16, 2024 [[Doc. No. 12](#)]. Discovery during Stage I shall be directed to the issues that will be the subject of the Stage I trial, unless otherwise agreed to between the parties, and may include discovery necessary to engage in meaningful settlement discussions. Discovery during Stage I shall not include the depositions of or written discovery

regarding individual members of the alleged class, which should be reserved for Stage II, except as the discovery relates to any aggrieved individuals identified by the EEOC as potential Stage I trial witnesses.

Stage II: Stage II discovery and trial shall be conducted only if there is a finding of liability against Defendant(s) regarding the EEOC's discrimination claim(s). Stage II discovery and trial shall consist of remedial issues regarding the alleged aggrieved persons for whom EEOC seeks relief in this action.

The trial and the nature of the parties' discovery during Stage II shall consist of the following issues:

- a. EEOC's proof that individual class members unsuccessfully applied or were deterred from applying for front-of-house positions in Fricker's restaurants and any rebuttal thereto;
- b. Defendants' proof that they did not discriminate against individual class members on the basis of sex and any rebuttal thereto;
- c. EEOC's proof of individual class members' damages, to include apportionment of any punitive damages award, and any rebuttal thereto; and
- d. Affirmative defenses pled by Defendants that pertain to the issues to be tried in Stage II.

If this action proceeds to Stage II, the Court shall issue another scheduling order dictating the scope and deadlines of applicable discovery and motions for Stage II.

SO ORDERED.

April 9, 2024

s/Michael J. Newman

UNITED STATES DISTRICT JUDGE